

SETTLEMENT AGREEMENT
BETWEEN
MISSOURI REAL ESTATE COMMISSION
AND
MARY A. JOHNSON-HICKS & MARY ONE JOHNSON
HOME TEAM REALTY, LLC

Purpose and Scope of Agreement

Mary A. Johnson-Hicks ("Johnson") and Mary One Johnson Home Team Realty, LLC ("Mary One Realty") and the Missouri Real Estate Commission ("MREC") enter into this Settlement Agreement for the purpose of avoiding litigation and minimizing the cost of and uncertainties associated with resolving the question of whether Johnson's license as a real estate broker associate, no. 1999124215, and Mary One Realty's license as a real estate association, no. 2002002619, will be subject to discipline. Pursuant to § 536.060, RSMo 2000,^{1/} the parties hereto waive the right to a hearing by the Administrative Hearing Commission of the State of Missouri and, additionally, the right to a disciplinary hearing before the MREC under § 621.110, RSMo. Cum. Supp. 2012. The MREC, Johnson and Mary One Realty jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo. Cum. Supp. 2012.

Acknowledgement of Waiver of Rights and Privileges

Johnson and Mary One Realty acknowledge that they understand the various rights and privileges afforded them by law, including the right to a hearing of the charges

^{1/} All statutory citations are to the 2000 Revised Statutes of Missouri unless otherwise noted.

against them; the right to appear and be represented by legal counsel; the right to have all charges proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing against them at the hearing; the right to present evidence on their behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the charges pending against them; the right to a ruling on questions of law by the Administrative Hearing Commission; the right to a disciplinary hearing before the MREC at which time Johnson and Mary One Realty may present evidence in mitigation of discipline; the right to a claim for attorney fees and expenses; and the right to obtain judicial review of the decisions of the Administrative Hearing Commission and the MREC.

Being aware of these rights provided to her by law, Johnson and Mary One Realty knowingly and voluntarily waive each and every one of these rights and freely enter into this Settlement Agreement and agree to abide by the terms of this document as they pertain to them.

Scope and Effect of Stipulations and Admissions

Johnson and Mary One Realty acknowledge that they have received a copy of documents that were the basis upon which the MREC determined there was cause for discipline, along with citations to law and/or regulations the MREC believes were violated. Solely for the purpose of resolving the dispute existing between the parties concerning the question of whether Johnson's and Mary One Realty's licenses are subject to discipline, Johnson and Mary One Realty stipulate that the factual allegations

contained in this Settlement Agreement are true and stipulate with the MREC that Johnson's license as a real estate broker associate, license no. 199124215, and Mary One Realty's license as a real estate association, no. 2002002619, are subject to disciplinary action by the MREC in accordance with the relevant provisions of Chapter 621, RSMo., and Chapter 339, RSMo., as amended.

This stipulation and the admissions contained in this Settlement Agreement are made solely for the purpose of resolving the dispute between the parties to this agreement and may not be used by the state of Missouri or any person or entity not a party to this agreement as evidence in any legal proceeding, except that the MREC, Johnson, Mary One Realty, the Administrative Hearing Commission or a reviewing court may use this agreement as evidence in an appeal of this matter, or in a matter related to this matter, such as a disciplinary action for a violation of this agreement under § 324.042, RSMo.

The parties stipulate and agree that the disciplinary order agreed to by the MREC, Johnson and Mary One Realty in Part II herein is based only on the agreement set out in Part I herein. Johnson and Mary One Realty understand that the MREC may take further disciplinary action against them based on facts or conduct not specifically mentioned in this document that are either now known to the MREC or may be discovered.

I.

Joint Stipulation of Facts and Conclusions of Law

Based upon the foregoing, the MREC, Johnson and Mary One Realty herein jointly stipulate to the following:

1. Mary A. Johnson-Hicks is licensed by the MREC as a broker associate, license no. 199124215. At all relevant times herein, Johnson's license was active and current.

2. Mary One Johnson Home Team Realty LLC is licensed by the MREC as a real estate association, license no. 2002002619. At all relevant times herein, Mary One Realty's license was active and current.

3. On July 2, 2009, Johnson and Mary One Realty entered into a settlement agreement with the MREC in which they agreed to discipline in connection with two instances which occurred in 2007 in which they failed to turn in licenses to the MREC upon request within the mandatory seventy-two hour period required by regulation 20 CSR 2250-4.050(3).

4. On or about June 17, 2010, Angela Dixon ("Dixon"), a salesperson licensed by the MREC, sought to transfer her salesperson license from Mary One Realty.

5. Dixon sent a letter by certified mail to Mary One Realty on or about June 17, 2010. The letter requested that Mary One Realty and Johnson return Dixon's license to the MREC.

6. The MREC did not receive Dixon's license from Johnson and Mary One Realty in June or July, 2010.

7. On or about July 20, 2010, the MREC sent Johnson and Mary One Realty a letter to their registered business address, 905 Locust, St. Louis, Missouri, 63101, by certified and regular mail. The letter informed Mary One Realty and Johnson that they had failed to comply with Dixon's request to submit Dixon's license to the MREC within

the mandatory seventy-two hour period required by regulation 20 CSR 2250-4.050(3). Furthermore, the letter requested that Johnson and Mary One Realty return the license by August 20, 2010, and for Johnson and Mary One Realty to provide a written response as to why they had failed to turn in Dixon's license. The certified letter was returned unclaimed, however, the regular posted mail was not returned to the MREC.

8. On or about August 6, 2010, the MREC received Dixon's license from Mary One Realty and Mary Johnson. The MREC did not receive the requested explanation for why Johnson and Mary One Realty failed to turn in Dixon's license to the MREC within the seventy-two hour timeframe.

9. Section 339.100, RSMo. Cum. Supp. 2009, states in pertinent part:

2. The commission may cause a complaint to be filed with the administrative hearing commission as provided by the provisions of chapter 621 against any person or entity licensed under this chapter or any licensee who has failed to renew or has surrendered his or her individual or entity license for any one or any combination of the following acts:

.....

(3) Failing within a reasonable time to account for or to remit any moneys, valuable documents or other property, coming into his or her possession, which belongs to others;

.....

(15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to 339.860*, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections 339.710 to 339.860*[.]

10. Regulation 20 CSR 2250-4.050, states in pertinent part:

(3) Within seventy-two (72) hours of the termination of the association of any broker salesperson or salesperson, a broker shall notify the commission and shall return to the commission that licensee's license. The broker shall provide a dated and timed receipt to the licensee when the licensee submits a letter of termination to the broker.

11. Regulation 20 CSR 2250-8.170 states:

(1) Failure of a licensee to respond in writing, within thirty (30) days from the date of the commission's written request or inquiry, mailed to the licensee's address currently registered with the commission, will be sufficient grounds for taking disciplinary action against that licensee.

12. Based on the stipulations above, there is a basis for finding that Johnson and Mary One Realty failed to remit within a reasonable time a valuable document which belonged to others, and that there is cause to discipline Johnson's and Mary One Realty's licenses pursuant to § 339.100.2(3).

13. Based on the stipulations above, there is a basis for finding that Johnson and Mary One Realty failed to return Dixon's license to the MREC within the seventy-two hour time period mandated by 20 CSR 2250-4.050(3) and that Johnson and Mary One Realty thereby violated a lawful rule established pursuant to sections 339.010 to 339.180 and sections 379.710 to 339.860. Thus, there is a basis for finding that there is cause to discipline Johnson's and Mary One Realty's licenses pursuant to § 339.100.2(15).

14. Based on the stipulations above, there is a basis for finding that Johnson and Mary One Realty failed to respond within the thirty days to the MREC's request to provide an explanation as to why Dixon's license was not returned within the seventy-

two hour timeframe, and that Johnson and Mary One Realty thereby violated 20 CSR 2250-8.170, a lawful rule established pursuant to sections 339.010 to 339.180 and sections 379.710 to 339.860. Thus, there is a basis for finding that there is cause to discipline Johnson's and Mary One Realty's licenses pursuant to § 339.100.2(15).

II.

Joint Agreed Disciplinary Order

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the MREC in this matter under the authority of § 536.060, RSMo., and §§ 621.045.3 and 621.110, RSMo. Cum. Supp. 2009.

15. Johnson and Mary One Realty agree to pay a civil penalty of \$2,000. Said penalty is authorized under § 339.205, RSMo. Cum. Supp. 2012.

16. Johnson and Mary One Realty agree to pay the \$2,000 civil penalty by certified check made payable to the "Missouri Real Estate Commission, State of Missouri" and mailed to Missouri Real Estate Commission, P.O. Box 1339, Jefferson City, MO 65102-1339. Johnson and Mary One Realty shall postmark and mail or hand deliver said check within 90 days of the date when this Settlement Agreement becomes effective.

17. Funds received pursuant to this agreement shall be handled in accordance with section 7 of article IX of the Missouri Constitution. Section 339.205.8, RSMo. Cum. Supp. 2012.

18. In the event the MREC determines that Johnson or Mary One Realty have failed to pay any portion of the \$2,000 agreed upon herein or has violated any other term

or condition of this Settlement Agreement, the MREC may, in its discretion: (1) notify the Attorney General who “may commence an action to recover the amount of the penalty, including reasonable attorney fees and costs and a surcharge of fifteen percent of the penalty plus ten percent per annum on any amount owed” under § 339.205.4, RSMo. Cum. Supp. 2009; (2) after an evidentiary hearing, vacate and set aside the penalty imposed herein and may probate, suspend, revoke, or otherwise lawfully discipline Johnson’s license and Mary One Realty’s license under § 339.205.7, RSMo. Cum. Supp. 2012.

19. This Settlement Agreement does not bind the MREC or restrict the remedies available to it concerning any future violations by Johnson and/or Mary One Realty of Chapter 339, RSMo., as amended, or the regulations promulgated thereunder, or of the terms and conditions of this Settlement Agreement.

20. This Settlement Agreement does not bind the MREC or restrict remedies available to it concerning facts or conduct not specifically mentioned in this Settlement agreement that are either now known to the MREC or may be discovered.

21. Each party agrees to pay all their own fees and expenses incurred as a result of this case, its litigation, and/or its settlement.

22. The terms of this Settlement Agreement are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Settlement Agreement, nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

23. The parties to this Settlement Agreement understand that the MREC will maintain this Settlement Agreement as an open record of the MREC as required by Chapters 339, 610, and 324, RSMo., as amended.

24. Johnson and Mary One Realty, together with their partners, members, managers, heirs, assigns, agents, employees, representatives and attorneys, do hereby waive, release, acquit and forever discharge the MREC, its respective members, employees, agents and attorneys including former members, employees, agents and attorneys, of, or from any liability, claim, actions, causes of action, fees, costs, expenses and compensation, including, but not limited to, any claim for attorney's fees and expenses, whether or not now known or contemplated, including, but not limited to, any claims pursuant to § 536.087, RSMo. (as amended), or any claim arising under 42 U.S.C. § 1983, which now or in the future may be based upon, arise out of, or relate to any of the matters raised in this case or its litigation or from the negotiation or execution of this Settlement Agreement. The parties acknowledge that this paragraph is severable from the remaining portions of the Settlement Agreement in that it survives in perpetuity even in the event that any court or administrative tribunal deems this agreement or any portion thereof void or unenforceable.

25. Johnson and Mary One Realty understand that they may, either at the time the Settlement Agreement is signed by all parties, or within fifteen days thereafter, submit the agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitute grounds for disciplining Johnson's and Mary One Realty's licenses. If Johnson and/or Mary One Realty desire the Administrative

Hearing Commission to review this Settlement Agreement, Johnson and/or Mary One Realty may submit their request to: Administrative Hearing Commission, Truman State Office Building, Room 640, 301 W. High Street, P.O. Box 1557, Jefferson City, Missouri 65102.

26. If Johnson and/or Mary One Realty requests review, this Settlement Agreement shall become effective on the date the Administrative Hearing Commission issues its order finding that the Settlement Agreement sets forth cause for disciplining Johnson's and Mary One Realty's licenses. If Johnson and/or Mary One Realty do not request review by the Administrative Hearing Commission, then this Settlement Agreement goes into effect 15 days after the document is signed by the Executive Director of the MREC.

LICENSEES

MISSOURI REAL ESTATE COMMISSION

8/11/13
Mary A. Johnson-Hicks
Mary A. Johnson-Hicks Date

8/21/13
Janet Carder
Janet Carder, Executive Director Date

CHRIS KOSTER
Attorney General

8/11/13
Mary One Johnson Home
Mary One Johnson Home Date
Team Realty, LLC

Ross Brown
Ross Brown
Assistant Attorney General
Missouri Bar No. 62771
Supreme Court Building
207 West High Street
P.O. Box 899
Jefferson City, MO 65102
Telephone: 573-751-4087
Telefax: 573-751-5660
Attorneys for the MREC